STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Ned I. Shulman, M.D.	)	Docket No. MPS 64-0602

STIPULATION AND CONSENT ORDER

NOW COME Ned I. Shulman, M.D. (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General James S. Arisman, and agree and stipulate as follows:

1. Ned I. Shulman, M.D., Respondent, a St. Albans internist, holds Vermont Medical License Number 042-0005476, issued by the Vermont Board of Medical Practice on May 13, 1975.

2. Jurisdiction vests in the Vermont Board of Medical Practice (Board) by virtue of 26 V.S.A. §§ 1353, 1354 & 1398.

I. Background.

3. A complaint against Respondent was opened by the Vermont Board of Medical Practice on or about June 14, 2002 as a result of a communication to the Board regarding Respondent's prescribing practices. With Respondent's full cooperation the Board's investigation determined, inter alia, that Respondent had prescribed DEA controlled substances for family members. The Board's investigation included review of many of the medical records for individual Patients A, B, C, and D, pharmacy records, and interviews.

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4. Respondent has cooperated fully with all phases of the Board's investigation of this matter, and Respondent has expressly admitted prescribing for family members. The Board's investigation confirmed that Respondent had prescribed DEA controlled substances for family members in violation of Board Rule 4.3 on repeated occasions. The Board's investigation also determined that Respondent failed to maintain appropriate patient medical records on all or most of the occasions when Patients A, B, C, and D were in his care and he prescribed controlled substances to them.

II. State's Allegations.

Patient A.

5. The Board's review of Patient A's medical records determined that Respondent provided medical care to the patient as early as April 21, 2000. Thereafter, Patient A received medical care from Respondent and other physicians. Numerous medical records identify Respondent as a physician for Patient A. Respondent's frequent prescribing for Patient A establishes the existence of a physician-patient relationship between the two.

6. After April 21, 2000 Respondent on multiple occasions prescribed for Patient A controlled substances in contravention of Board Rule 4.3. Medical records indicate Respondent wrote prescriptions for Patient A as follows:

(a) "OxyContin 10 mg, 2 BID, #100".

OxyContin is an opioid agonist and a DEA Schedule II controlled substance with effects and an abuse potential similar to morphine. OxyContin is known to produce physical dependence and tolerance and must be prescribed with caution.

(b) "Oxy IR, 5 mg, 1 4-6 h, #100".

Oxy IR (immediate release) capsules contain Oxycodone hydrochloride, a narcotic analgesic with effects similar to those of morphine. Oxy IR is classified

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as a DEA Schedule II controlled substance known to produce psychic dependence, physical dependence, and tolerance and must be prescribed with caution.

(c) "Norco, 10/325 mg, 1-2 q 4-6 h, prn, #100, One Hundred".

Norco is a narcotic analgesic with effects that are qualitatively similar to those of codeine Norco is classified as a DEA Schedule III controlled substance known to produce psychic dependence, physical dependence, and tolerance and must be prescribed with caution.

(d) "Oxy IR, 5 mg, 1 q 4 h, prn, #100, One Hundred".

(e) "OxyContin 20 mg, 1 OID, #50, Fifty".

(f) "OxyContin 40 mg, 1 BID, #40, Forty".

(g) "OxyContin 10 mg, 1 OID, #120, One Hundred Twenty".

7. On another occasion Respondent prescribed for Patient A Norco, 10/325 mg, 1 q 4h, prn, #100, with three refills.

8. On three other occasions Respondent wrote prescriptions for Patient A:

(a) "Oxy IR, 5 mg, 1-2q h, prn, #100".

(b) "OxyContin 80 mg, 2 BID, #120".

(c) "OxyContin 10 mg, 1-2 TID, prn, #180".

9. With regard to Paragraphs 6, 7 and 8, and the drugs listed therein, Patient A's medical records include no written indication that the patient was examined by Respondent, no written indication that a history and physical was taken or reviewed by Respondent, and provide no written explanation as to why the drugs listed above and in Paragraph 10, below, were prescribed by Respondent.

10. The Board's examination of St. Albans-area pharmacy records indicated that Respondent prescribed the controlled substances listed below for Patient A. The prescriptions were filled at several different pharmacies. The dates that each prescription was written by Respondent and the drugs prescribed are listed below:

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July 2, 2001: Diazepam tablets, 10 mg;

July 6, 2001: Norco tablets, 10/325 mg;

July 7, 2001: Triazolam tablets, .25 mg;

July 14, 2001: Valium tablets, 10 mg;

August 8, 2001: Norco tablets, 10/325 mg

October 4, 2001: Diazepam tablets, 5 mg;

October 29, 2001: Percocet tablets, 5/325 mg;

November 13, 2001: Oxy IR capsules, 5 mg;

November 21, 2001: Oxy IR capsules, 5 mg;

November 24, 2001: OxyContin 20 mg Tablets;

November 24, 2001: OxyContin 10 mg Tablets;

December 11, 2001: OxyContin 10 mg Tablets;

December 11, 2001: Oxy IR capsules, 5 mg;

January 8, 2002: Oxy IR capsules, 5 mg;

January 16, 2002: OxyContin 20 mg Tablets;

January 22, 2002: Norco tablets, 10/325 mg;

January 22, 2002: OxyContin 20 mg Tablets;

January 22, 2002: OxyContin 40 mg Tablets;

January 22, 2002: Oxy IR capsules, 5 mg;

January 22, 2002: OxyContin 10 mg Tablets;

March 4, 2002: OxyContin 10 mg Tablets;

March 4, 2002: Oxy IR capsules, 5 mg;

Characteristics of the Above Drugs Prescribed for Patient A

11. Valium (or diazepam) is a benzodiazepine derivative that is indicated for the management of anxiety disorders or for the relief of the symptoms of anxiety. The drug may produce psychological or physical dependence. Individuals require careful surveillance

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when receiving Valium or diazepam because of the predisposition of some individuals to habituation and dependence. Valium (diazepam) is a DEA Schedule IV drug.

12. Percocet is a combination of oxycodone hydrochloride and acetaminophen. The principal ingredient, oxycodone, is a semisynthetic opioid analgesic with effects that are qualitatively similar to those of morphine. Psychic dependence, physical dependence, and tolerance may develop from the repeated administration of Percocet. Percocet is a DEA Schedule II drug.

13. Triazolam (or Halcion) is a sedative-hypnotic of the benzodiazepine family of drugs and is a DEA Schedule IV drug. And see Paragraph 6 as to characteristics of other drugs referred to above.

Patient A: Respondent's Medical Records

14. Notwithstanding that Patient A was also under the care of other physicians, Respondent's records for Patient A provide no indication in relation to each prescription that the patient was examined by him, no indication that a history and physical was taken, and provide no explanation as to why each of the drugs listed above were prescribed by Respondent.

15. Respondent's medical records for Patient A do not include a specific assessment or identification by Respondent of Patient A's medical needs. The medical records of Patient A do not include a written assessment by Respondent as to any pain that Patient A may have been experiencing.

16. Respondent's medical records of Patient A do not include a plan by Respondent for treatment of Patient A's medical needs.

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17. Respondent's medical records of Patient A do not include plan by Respondent for prescribing for treatment of Patient A's medical needs.

18. The medical records of Patient A do not indicate that Respondent referred the patient to a clinic specializing in the treatment and/or management of pain.

19. The medical records of Patient A do not indicate that the patient was required by Respondent to execute a "narcotics contract" specifying the conditions under which the patient would be prescribed controlled substances. Patient A's medical records include no indication that the patient was counseled by Respondent regarding the possibility of dependency or addiction that might result or continue from use of the controlled substances prescribed by Respondent.

20. The medical records of Patient A do not indicate that the patient was counseled by Respondent regarding the general condition of drug dependency and/or addiction or referred by Respondent for evaluation and/or treatment relative to such a condition.

Patient B.

21. The Board's review of Patient B's medical records determined that Respondent provided medical care to the patient as early as August 22, 1995. Thereafter, Patient B received medical care from both Respondent and other physicians. Medical records identify Respondent as a physician for Patient B. Respondent's prescribing for Patient B indicates the existence of a physician-patient relationship between the two.

22. Respondent prescribed on numerous occasions controlled substances for Patient B in contravention of Board Rule 4.3. Pharmacy records gathered by Board

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investigators indicate that Respondent wrote prescriptions for DEA schedule drugs for Patient B on the dates listed below. These prescriptions were filled at several different pharmacies. The dates that each prescription were written by Respondent and the drugs prescribed are listed below:

July 11, 2001: Halcion tablets, .25 mg.;
August 22, 2001: Triazolam tablets, .125 mg.;
December 3, 2002: Ambian tablets 10 mg.;
December 4, 2001: codeine/guaifenesin 10/300 mg;
January 4, 2002: OxyContin tablets, 40 mg.;
February 16, 2002: Diazepam 10 mg;
February 16, 2002: Norco 10/325 mg;

Characteristics of the Drugs Prescribed for Patient B

23. As noted above, Triazolam (or Halcion) is a sedative-hypnotic of the benzodiazepine family of drugs and is a DEA Schedule IV drug. A history of alcohol or drug abuse may increase the likelihood of dependence on this drug.

24. Ambien (zolpidem tartrate) is a non-benzodiazepine hypnotic of the imidazopyrine class and shares some of the pharmacological properties of benzodiazepines. Ambien is indicated for the short-term treatment of insomnia. Ambien (zolpidem tartrate) is a DEA schedule IV drug.

25. Codeine and guaifenesin tablets are a narcotic cough suppressant and expectorant combination used to treat coughs due to colds or flu. This formulation is listed in DEA schedule III. Codeine and guaifenesin is the generic equivalent of Brontex. See also, Paragraph 27, below.

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26. As previously noted, OxyContin is an opioid agonist and a DEA Schedule II controlled substance with effects and an abuse potential similar to morphine. OxyContin is known to produce physical dependence and tolerance and must be prescribed with caution.

27. Brontex tablets (codeine phosphate/guaifenesin) temporarily relieves cough due to minor throat and bronchial irritation. The combination of the antitussive activity of codeine and the expectorant action of guaifenesin results in coughs becoming more productive and less frequent. Psychological dependence, physical dependence, and tolerance are known to occur with the use of codeine. Codeine is known to be subject to abuse. Brontex tablets are a DEA schedule III drug.

28. As previously noted, above, Diazepam is a benzodiazepine derivative that is indicated for the management of anxiety disorders or for the relief of the symptoms of anxiety. The drug may produce psychological or physical dependence. Individuals require careful surveillance when receiving diazepam because of the predisposition of some individuals to habituation and dependence. Diazepam is a DEA Schedule IV drug.

29. As previously noted, above, Norco is a narcotic analgesic with effects that are qualitatively similar to those of codeine. Norco is classified as a DEA Schedule III controlled substance known to produce psychic dependence, physical dependence, and tolerance and must be prescribed with caution. And see Paragraphs 6, 11, 12, and 13 as to characteristics of other drugs referred to above.

Patient B: Respondent's Medical Records

30. Notwithstanding that Patient B was also under the care of other physicians, Respondent's records for Patient B include no indication in relation to each prescription

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listed in Paragraph 22, above, that the patient was examined by Respondent, no indication that a history and physical was taken or reviewed by Respondent, and provide no explanation as to why the drugs listed in Paragraph 22 were prescribed by Respondent.

31. Respondent's medical records for Patient B do not include an assessment by Respondent of Patient B's medical needs or any indications of pain that the patient might be experiencing.

32. Respondent's medical records for Patient B do not include a plan by Respondent for treatment of Patient B's medical needs.

33. Respondent's medical records for Patient B do not include a plan by Respondent for any prescribing that might be required in response to Patient B's medical needs.

Patient C.

34. The Board's review of Patient C's medical records determined that Respondent first provided medical care to the patient on or about December 23, 2001. Thereafter, Patient C received medical care from Respondent and other practitioners. Medical records identify Respondent as a physician for Patient C. Respondent's prescribing for Patient C establishes the existence of a physician-patient relationship between the two.

35. Respondent prescribed on several occasions controlled substances for Patient C. Pharmacy records gathered by Board investigators indicate that Respondent wrote prescriptions for DEA schedule drugs for Patient C on the dates below and for the drugs listed.

December 23, 2001: Percocet, 5/325 mg.

February 5, 2002: Oxycodone/APAP tablets, 5/325 mg.;

February 8, 2002: Percocet, 5/325 mg.;

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February 20, 2002: Hydrocodone/APAP tablets, 10/650 mg.;
April 26, 2002: Hydrocodone/APAP tablets, 10/500 mg.;
June 24, 2002: Hydrocodone/APAP tablets, 10/650 mg.;
July 2, 2002: Hydrocodone/APAP tablets, 7.5/650 mg.

Characteristics of the Drugs Prescribed for Patient C

36. As noted previously, Percocet is a combination of oxycodone hydrochloride and acetaminophen. The principal ingredient, oxycodone, is a semisynthetic opioid analgesic with effects that are qualitatively similar to those of morphine. Psychic dependence, physical dependence, and tolerance may develop from the repeated administration of Percocet. Percocet is a DEA Schedule II drug.

37. As noted previously, oxycodone, is a semisynthetic opioid analgesic with effects that are qualitatively similar to those of morphine. The repeated administration of oxycodone may result in dependence. Oxycodone that is known to be subject to abuse and diversion. Oxycodone is a DEA Schedule II drug.

38. Hydrocodone/APAP (acetaminophen) tablets are used to relieve moderate to moderately severe pain. Hydrocodone bitartrate is an opioid analgesic and antitussive. Hydrocodone/APAP is a DEA Schedule III drug.

Patient C: Respondent's Medical Records

39. With regard to Paragraph 35, above, and with the exception of records for February 5, 2002 and February 8, 2002, Patient C's medical records include no information in relation to each prescription that that the patient was examined by Respondent, no indication that a history and physical was taken or reviewed by Respondent, and provide no explanation as to why the drugs listed in Paragraph 35 were prescribed by Respondent.

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40. With regard to Paragraph 35, above, and with the exception of February 5, 2002 and February 8, 2002, the medical records of Patient C do not include an assessment by Respondent of Patient C's medical needs or any indications of pain.

41. With regard to Paragraph 35, above, and with the exception of February 5, 2002 and February 8, 2002, the medical records of Patient C do not include a plan by Respondent for treatment plan of Patient C's medical needs.

42. With regard to Paragraph 35, above, and with the exception of February 5, 2002 and February 8, 2002, the medical records of Patient C do not include a plan by Respondent for prescribing related to Patient C's medical needs.

Patient D.

43. Respondent began to provide medical care to Patient D on or about December 16, 1997. Respondent treated the patient on various occasions for an injury and recurring pain.

44. On or about May 11, 2002 Respondent was out-of-State in California. He called by telephone to a St. Albans-area pharmacy from California and prescribed 90 Diazepam tablets, 10 mg., for Patient D.

45. Respondent's medical records for Patient D include only a two-line, unsigned entry indicating that the above prescription was called into the pharmacy on May 11, 2002. The patient's records do not include information of any kind to indicate that Respondent had examined Patient D on or about this date or had spoken to the patient regarding a medical problem on or about that date or a need for the prescribed drug. Patient D's medical records do not include written entries regarding Patient D's condition or medical

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needs on or about May 11, 2002 or in any way reflect a reason why the prescription was made by Respondent for the patient. Patient D may never have received the drugs prescribed.

46. As noted previously, Diazepam is a benzodiazepine derivative that is indicated for the management of anxiety disorders or for the relief of the symptoms of anxiety. The drug may produce psychological or physical dependence. Individuals require careful surveillance when receiving diazepam because of the predisposition of some individuals to habituation and dependence. Diazepam is a DEA Schedule IV drug.

III. Respondent's Medical License to Be Conditioned.

47. Consistent with his continuing cooperation with the Board in its investigation of this matter, Respondent does not contest the facts set forth above in paragraphs 5 through 46, above, and agrees that the Board of Medical Practice may adopt and enter paragraphs 5 through 46 as uncontested findings of fact in this matter.

48. Respondent agrees that Vermont Board of Medical Practice Rule 4.3, effective February 16, 2001, provides in pertinent part as follows:

> 4.3 SELF-PRESCRIBING AND PRESCRIBING FOR FAMILY MEMBERS
>
> It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe controlled substances listed in DEA Schedules II, III, and IV for his or her own use. Such conduct constitutes a violation of 26 V.S.A. § 1398. It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe Schedule II, III, and IV controlled substances to a member of his or her immediate family, except in a bona fide emergency, of short-term and unforeseeable character.

49. Respondent admits that Patients A and B, referred to above, meet the definition of Board Rule 4.3. Respondent expressly ~~admits and~~ does not contend that such recurring prescribing by him over a protracted period of time, constitutes "a bona fide

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emergency, of short-term and unforeseeable character," although he has indicated that he believed at the time that he was acting appropriately.

50. Respondent admits that his actions, as generally set forth in paragraphs 5 through 46 above, constitute a violation of 26 V.S.A. §§ 1354 and 1398. Notwithstanding Respondent's belief at the time that he was acting appropriately in prescribing controlled substances for his family members while caring for them, he expressly agrees here that his actions in that regard were unprofessional. Respondent agrees that the Board of Medical Practice may adopt and enter as its findings and conclusions this paragraph, paragraphs 5 through 46, and Paragraph 49, above.

51. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges that he has had advice of counsel regarding the matter before the Board and advice of counsel in reviewing this Stipulation and Consent Order. He agrees and understands that by executing this document he is waiving any right to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with the evidence against him, to cross-examine adverse witnesses, and to offer evidence of his own to contest the State's charges. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, 814.

52. The parties to this Stipulation and Consent Order agree that appropriate disciplinary action against Respondent shall consist of the following:

A. Respondent's license to practice medicine shall be designated as "conditioned" for a period of forty-eight (48) months from the effective date of the Board's Order approving this Agreement, and Respondent shall comply fully and

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in good faith with each of the terms and conditions of licensure set forth below, wherever he may practice, until such time as he has been relieved of all conditions herein by express written order of the Vermont Board of Medical Practice. Respondent may continue the practice of medicine, subject, however, to his full compliance with all the terms and conditions of licensure set forth herein.

B. Substantial or repeated failure by Respondent to comply in the future with any of the terms and conditions herein may constitute unprofessional conduct and, if established by the State's evidence, shall result in the suspension of Respondent's license to practice medicine for thirty-six months, and such other disciplinary action as the Board may deem appropriate under the circumstances.

C. Respondent shall be publicly REPRIMANDED by the Vermont Board of Medical Practice for the conduct set forth above, in addition to the imposition of the disciplinary terms and conditions set forth herein and below.

53. No specification of charges has been filed by the State in this matter. Respondent has not previously been the subject of disciplinary action by the Vermont Board of Medical Practice.

IV. Terms and Conditions to be Imposed on Respondent's Medical License.

A. General.

54. Respondent agrees that he has read and carefully considered all terms and conditions herein and agrees to accept and be bound by these while licensed to practice medicine in the State of Vermont or elsewhere and to be bound by these until such time in

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the future as he may be expressly relieved of these conditions, in writing, by the Vermont Board of Medical Practice. The Board, in its sole discretion, may consider a petition from Respondent for partial relief from or modification of these conditions, no sooner than 24 months after the effective date of this Stipulation and Consent Order, unless a petition for modification at any earlier date is otherwise expressly provided for, elsewhere herein.

55. Respondent's license to practice medicine in the State of Vermont shall be conditioned for a minimum of four years, following entry of the Board's Order approving the terms of this agreement. Respondent's Vermont license to practice medicine shall include the designation "Conditioned" until such time as all terms and conditions upon his medical license have been removed.

56. During the period that Respondent's license is conditioned he shall comply fully with all the requirements set forth herein. Respondent also agrees that he shall abide by and follow all recommendations that are presented to him by those conducting all such training courses as he is required to attend under the terms of this agreement. He expressly agrees that he shall promptly sign any and all necessary consents and/or waivers of confidentiality as to his participation in such training, so as to permit full and complete disclosure to the Board for the purpose of permitting the Board to monitor his participation.

B. Practice Site.

57. Respondent agrees that he shall meet in regular consultation with a responsible peer physician regarding his pain management, and prescribing practices for patients outside of a hospital and nursing home setting. Such regular consultation shall occur at least twice a month. Respondent agrees to inform the Board in writing of all locations

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where he shall practice and the name of the practitioner proposed to act as a "mentoring physician." The physician proposed by Respondent for this purpose shall be subject to approval or disapproval by the Board in its sole discretion. Respondent shall provide a current c.v. for the proposed mentoring physician with his request for approval.

58. Respondent agrees that he shall provide a complete copy of this Stipulation and Consent Order to any and all licensed practitioners with whom he is associated in practice, to any prospective employer, and to any State medical board or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application, so long as this agreement remains in effect.

C. Prescribing and Dispensing.

59. Respondent agrees he shall not prescribe or dispense DEA schedule controlled substances ("controlled substances") of any kind to himself or to any family member, whether such family relationship exists by birth or marriage, or to any person residing or staying in his home, to any person in his employ, or to any person with whom he is associated in the practice of medicine or to Patient C during the life of this agreement. He expressly agrees that hereafter he shall fully and at all times comply with the provisions of Board Rule 4.3.

60. During the life of this agreement Respondent agrees that each office patient for whom he prescribes controlled substances in the course of his practice shall have a current diagnostic assessment and treatment plan which shall be available for review by the Board at any time pursuant to its authority under 18 V.S.A. § 4218(c) while conditions

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remain upon Respondent's license to practice medicine. Each such plan shall include specific entries regarding the patient's diagnosis or condition and the rationale for prescribing each such controlled substance for the patient. Each such plan shall be promptly made available for review by the Board or its agent upon request. Each controlled substance that is prescribed for a patient shall be clearly noted in writing in the patient's office record with the date of prescribing indicated. Medical records of patients cared for by Respondent may be reviewed forthwith and at any time by the Board or its agents, pursuant to 18 V.S.A. § 4218(c), other applicable authorities, and the terms and conditions herein, to determine compliance with this agreement. This requirement and that of Paragraph 62 following is not intended to apply to those circumstances in which Respondent is providing call coverage for the regular patients of other physicians, but in each such circumstance Respondent shall keep copies of all records relating to care for other patients.

61. Respondent agrees that all prescriptions by him for patients seen outside hospital and nursing homes for DEA schedule II, III, and IV drugs shall be copied and retained in duplicate during the life of this agreement. One copy of each such prescription shall be promptly placed in a chronologically-ordered file which shall be made available for review by the Board or its agents, at any time and without prior notice, upon request. The second copy of each such prescription shall be retained, and every three months all such copies on hand shall be promptly forwarded to the Board of Medical Practice for review. Copies of prescription records submitted to the Board are for the sole purpose of investigating compliance with the terms of this Stipulation only, and no further use or

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disclosure of the prescription records shall be allowed. This record-keeping requirement does not apply to patients seen or treated in a hospital or nursing home.

62. Respondent expressly acknowledges and agrees he may prescribe controlled substances only for bona fide patients who are seen by Respondent in his office or are being cared for in a nursing home or hospital setting except when he is providing regularly scheduled call coverage for established patients of another physician. Respondent agrees that he shall not store or possess controlled substances intended for the care of patients at any location other than his office. Respondent agrees that any legitimately prescribed controlled substances that are present at any time in his household shall be limited to a thirty-day supply and shall be retained as dispensed in their original, labeled container.

63. Respondent agrees that during the life of this agreement he shall not accept new patients who require treatment for chronic pain. Respondent agrees that any patients newly requiring treatment for chronic pain from the effective date of this agreement forward, shall not be prescribed DEA schedule II, III, or IV drugs for treatment of chronic pain for a period longer than thirty (30) days during the first two years of this agreement. During this period patients who newly require treatment for chronic pain and who require prescriptions of DEA schedule II, III, or IV drugs for chronic pain for a period longer than thirty (30) days or who recurrently require the prescribing of such drugs for acute pain shall be promptly referred to another practitioner for such care. Respondent agrees to provide the Board with the number of patients currently being treated for chronic pain as of the effective date of this agreement, and to identify those patients for the mentoring physician.

D. Education.

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64. Respondent agrees that within one year of approval of this Stipulation and Consent Order he shall satisfactorily complete, at his own expense, educational coursework or programs, subject to review and approval, in its sole discretion, by the Vermont Board of Medical Practice, which shall address the legal requirements and criminal sanctions related to the handling, distribution, and prescribing of controlled substances; the judicious prescribing of controlled substances; physician ethics; and medical record keeping.

65. Medical Record Keeping: Respondent agrees that he shall promptly attend and successfully complete (a) the on-site, two-day intensive course in medical record keeping which is offered by the School of Medicine of the Case Western University; and (b) the program's additional chart review and feedback activities that occur at three months and six months after completion of the on-site course. Respondent agrees that his attendance shall take place as soon as reasonably practicable and in no case more than 12 months following the effective date of this agreement. Respondent agrees that he shall document his attendance and successful completion of this coursework by prompt submission to the Board of appropriate certification, documentation, and/or evaluation of his coursework. Respondent shall bear all costs.

66. The above coursework must be eligible for credit as "continuing medical education" and be eligible for total credits of at least 17.5 hours in Category I of the Physician's Recognition Award of the American Medical Association. Respondent's participation must earn the full 17.5 hours of credits for such course work. Respondent shall be responsible for ensuring that documentation of and evaluations of Respondent's participation in and satisfactory completion of such coursework are promptly forwarded to

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the Board of Medical Practice for its review. Such documentation must be provided in a manner and form satisfactory to the Board and in no case later than 30 days after Respondent's completion of any individual course. Respondent shall bear all costs.

67. Controlled Substance Management: Respondent agrees that he shall promptly attend and successfully complete the four-day intensive course in controlled substance management which is offered by the School of Medicine of the Case Western University. Respondent agrees that his attendance shall take place as soon as reasonably practicable and in no case more than 12 months following the effective date of this agreement. Respondent agrees that he shall document his attendance and successful completion of this coursework by prompt submission to the Board of appropriate certification, documentation, and/or evaluation of his coursework. Respondent shall bear all costs.

68. The above coursework must be eligible for credit as "continuing medical education" and be eligible for a total credit of at least 40.0 hours in Category I of the Physician's Recognition Award of the American Medical Association. Respondent's participation must earn the full 40.0 hours of credits for such course work. Respondent shall be responsible for ensuring that documentation of and evaluations of Respondent's participation in and satisfactory completion of such coursework are promptly forwarded to the Board of Medical Practice for its review. Such documentation must be provided in a manner and form satisfactory to the Board and in no case later than 30 days after Respondent's completion of any individual course. Respondent shall bear all costs.

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69. Medical Ethics and Professionalism: Respondent agrees that he shall promptly attend and successfully complete the two day intensive course in medical ethics and professionalism which is offered by the School of Medicine of the Case Western University. Respondent agrees that his attendance shall take place as soon as reasonably practicable and in no case more than 12 months following the effective date of this agreement. Respondent agrees that he shall document his attendance and successful completion of this coursework by prompt submission to the Board of appropriate certification, documentation, and/or evaluation of his coursework. Respondent shall bear all costs.

70. The above coursework must be eligible for credit as "continuing medical education" and be eligible for a total credit of at least 16 hours in Category I of the Physician's Recognition Award of the American Medical Association. Respondent's participation must earn the full 16 hours of credits for such course work. Respondent shall be responsible for ensuring that documentation of and evaluations of Respondent's participation in and satisfactory completion of such coursework are promptly forwarded to the Board of Medical Practice for its review. Such documentation must be provided in a manner and form satisfactory to the Board and in no case later than 30 days after Respondent's completion of any individual course. Respondent shall bear all costs.

E. Referral to Vermont Practitioner Health Program.

71. Respondent agrees that the Board of Medical Practice may refer his name and the investigative file in this matter, in whole or in part, to the Vermont Practitioner Health Program ("VPHP Program") of the Vermont Medical Society for such review, evaluation, recommendations, and program participation as may be deemed necessary by

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the Program. Respondent agrees to cooperate fully with the VPHP Program and pursue in good faith such recommendations or requests as may be directed to him by the Program. Respondent agrees to do so until such time as he is deemed by the VPHP Program to have fully completed all involvement with the Program as may be necessary, in the opinion of the Program.

72. Respondent agrees to sign all necessary waivers of confidentiality so as to permit the VPHP Program and the Vermont Board of Medical Practice to exchange information, without limitation, regarding the instant matter before the Board, Respondent's treatment needs, if any, and his participation and progress in the Program. As may be hereafter required, while this agreement is pending, Respondent agrees to execute such additional waivers of confidentiality as may be required to permit the Board to communicate with providers regarding his needs and progress.

V. Other Terms and Conditions as to Implementation.

73. Respondent acknowledges and agrees that engaging in unprofessional conduct, as set forth in 26 VSA §§1354 & 1398 may constitute prima facie evidence of a violation by him of this agreement sufficient to support findings by the Board that the present terms and conditions of this agreement are inadequate to protect the health, safety and welfare of the public, and thus, could result in a motion by the State for the immediate suspension of Respondent's medical license.

74. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and may be reported to other

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GENERAL
109 State Street
Montpelier, VT
05609

licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

75. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order conditioning and restricting Respondent's license to practice medicine as set forth above, that such license be subject to each of the terms and conditions as set forth herein, and that Respondent be publicly REPRIMANDED by the Vermont Board of Medical Practice for the unprofessional conduct set forth herein.

76. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce all terms and conditions of this Stipulation and Consent Order during its lifetime. Respondent expressly agrees that any failure by him to comply with the terms of this Stipulation and Consent Order, specifically including but not limited to its reporting requirements, shall constitute unprofessional conduct under 26 V.S.A. §1354(25) and may subject Respondent to such further disciplinary action as the Board may deem appropriate.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

Dated at Montpelier, Vermont, this 6th day of May, 2003.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by: _____
JAMES S. ARISMAN
Assistant Attorney General

Dated at St Albans, Vermont, this 6th day of May, 2003.

_____
NED I. SHULMAN, M.D.
Respondent

_____
PETER F. YOUNG, ESQ.
Counsel for Respondent

* * * *

FOREGOING, AS TO NED I. SHULMAN, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

_____
_____
_____
_____
_____
_____
_____

DATED: May 7, 2003

ENTERED AND EFFECTIVE: May 7, 2003